

ORDINANCE NO. 3845

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, RELATING TO DEVELOPMENT REGULATIONS FOR WIRELESS COMMUNICATION FACILITIES, REPEALING AND READOPTING CHAPTER 20.50 ECDC, AMENDING AND REPEALING CORRESPONDING REGULATIONS AND REFERENCES ELSEWHERE IN THE ECDC, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, beginning in April 2010, the Planning Board began to examine the existing siting and appearance requirements for wireless communications facilities in Edmonds as requested by the City Council; and

WHEREAS, initially, it was felt that minor changes to the existing code language in ECDC 18.05 (Utility Wires) and ECDC 20.50 (Wireless Communications Facilities) would be sufficient to provide the additional clarification and protection that the Council was looking for regarding siting and visual impact; and

WHEREAS, it quickly became clear that the City's existing wireless regulations were largely outdated and therefore needed to be re-evaluated in a more comprehensive way; and

WHEREAS, the Planning Board's work included extensive reading and discussion about the technology used by the wireless industry, how other jurisdictions regulate wireless facilities, and a driving tour of the wireless sites in the City to become better acquainted with the technology currently in place in Edmonds; and

WHEREAS, the Planning Board's work led to the creation of an updated proposed wireless communications facility regulation which integrated newly learned information, as well as pertinent code from chapter 18.05 ECDC, into proposed chapter 20.50 ECDC; and

WHEREAS, the proposed permitting framework brings chapter 20.50 ECDC in line with the recently approved changes to land use permitting in Title 20; and

WHEREAS, the proposed wireless communication facility regulations were also reviewed by the Architectural Design Board; and

WHEREAS, after receiving a recommendation from the Planning Board, the City Council held a public hearing on the proposed wireless communication facility regulations on June 7, 2011; and

WHEREAS, the City Council finds that the proposed wireless communication facility regulations will protect the public interest to the extent allowed by federal law; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repealer. Chapter 20.50 of the Edmonds Community Development Code is hereby repealed in its entirety.

Section 2. Re-adoption of Regulations for Wireless Communication Facilities. A new chapter 20.50 of the Edmonds Community Development Code is hereby adopted to read as set forth in **Attachment A** which is attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. ECDC 18.05.000, entitled “Scope,” is hereby amended to read as follows (new text is shown in underline, deleted text is shown in ~~strikethrough~~):

18.05.000 Scope.

A. This chapter shall be interpreted to require all new, or extended utilities to be underground, except when exempted by this section.

1. “Utilities” shall mean all equipment used to deliver services by a utility such as electricity, telephone or cable television.

2. “Common utilities” shall mean utilities which serve more than one lot or commercial development.

3. “Private utility services” shall mean the utilities which connect a lot or commercial development with common utilities.

4. “Utility” shall mean the person, agency, corporation or other organization providing utility service.

5. “Existing utility use” shall mean the existing utility service as judged in three categories: number of poles, number of lines and height of poles within the project area for which the permit is sought.

6. “New or extended utilities” shall mean only utilities which are being built or extended to serve a new commercial, industrial, or multifamily residential development which has not had that type of utility service, or to serve a new single-family residential subdivision.

a. This definition shall not include:

i. Temporary extensions of service for construction purposes;

ii. Additions to any existing aboveground utility system where such additions are not for the purpose of serving new commercial development or a single-family residential subdivision; nor

iii. Rebuilding or replacing existing common utilities; provided, that the rebuilt or replaced structures do not expand the existing utility’s use within the project area by 10 percent, except as provided in chapter 20.50 ECDC ~~18.05.030(B)(3)~~ for wireless facilities. “Expansion” shall include the number and height of poles, as well as the number of wires or cable carried thereon.

b. All utility services sought to be constructed as temporary services, additions or rebuilt or replaced service shall be reviewed prior to issuance of a permit by the community services director. Any utility service found to be a “new or extended” service or an “expanded” service shall be reviewed as herein provided.

7. “Multifamily residential” shall mean development intended for use as apartments, duplexes, condominiums, or planned residential development.

8. “Project area” shall mean the actual area in which the project is proposed and shall include all structures or facilities actually, physically impacted by the improvement as well as any necessary appurtenant or accessory structures.

B. Exemptions. The following are exempt from the underground requirement of ECDC 18.05.010, but are still subject to the design standards of ECDC 18.05.030.

1. Electric utility substations, padmounted transformers and switching facilities;
2. Electrical utilities of more than 55 kilovolts;
3. Communication utilities not located on or along a public street right-of-way or private access easement;
4. Street light poles;
5. Telephone pedestals and similar devices;
6. Police and fire sirens, traffic-control devices and other similar municipal equipment;
7. Communication antennas which meet current FCC requirements, if any.

Section 4. ECDC 18.05.030 is hereby amended to read as follows (new text is shown in underline, deleted text is shown in ~~strike through~~):

18.05.030 Design standards.

A. Underground Utilities.

1. All utilities shall be installed in accordance with all applicable national, state and city standards.
2. Where different utilities are planned or required in the same corridor, each utility shall make every effort to locate all the utilities in common joint trenches.

B. Aboveground Utilities.

~~1. The architectural design board shall review and make recommendations on all plans of aboveground utilities before a building permit or other construction permit is issued. The review of the board shall be limited to the following criteria:~~

~~a.~~ All aboveground utilities except poles, appurtenances, and overhead pole lines shall be enclosed within a building or shall be completely screened year round with a combination of landscaping or walls, fences, etc.; provided that adequate access for use and maintenance through said screening may be reserved by the utility.

a. Landscape screening shall be visually solid, and at least as high as the equipment to be screened, within five years of the installation of the equipment.

b. The owner of the property on which the aboveground utilities are located or the owner of the property abutting the right-of-way in which the aboveground utilities are located, shall install and permanently maintain the enclosure and screening. Aboveground facilities needed for underground utilities serving one single-family dwelling and low profile mini-pad transformers are exempt from this screening requirement.

bc. Space frames and structures and conductors holding aboveground utilities shall have a neat and uncluttered appearance.

~~2. Where the construction of any common or private utility service shall require a variance from some other provision of the Edmonds Community Development Code, the architectural design board shall note the need for a variance and shall defer any decision or recommendation to the hearing examiner.~~

~~3. A PUD transmission pole may be extended or replaced with a new pole that is increased in height to allow one wireless carrier to mount antennas on an existing structure. The new pole height may be increased by no more than the sum of the height of the wireless antennas plus 15 feet of vertical separation from the power lines. The 15 foot vertical separation is intended to allow wireless carriers to comply with PUD requirements for separation between their transmission line and the carrier's antennas. All other components of the wireless facility must comply with Chapter 20.50 ECDC, Wireless Communications Facilities. PUD transmission poles are those poles which are carrying 50 kV or greater power lines.~~

~~4. No metal pole or tower shall be utilized in a single family residential zone unless required in order to comply with the provisions of the State Electrical Code. Wooden poles of height and type generally in use in the surrounding residential neighborhood shall be utilized unless prohibited by the State Electrical Code. Conduit placed upon the pole to serve the wireless facility shall be of a color closely matching the pole.~~

~~5. At least 10 days prior to installation of a wireless facility on or atop a pole in a residential neighborhood, either the utility that owns the pole or the utility installing the wireless facility shall host an informational meeting for all property owners within 300 feet of the pole.~~

~~Notice shall be provided in writing and deposited in the U.S. mail, postage paid, five business days prior to the informational meeting. Failure to provide the notice and/or host the informational meeting shall be a civil infraction punishable by a fine of up to \$250.00.~~

Section 5. ECDC 16.20.040 is hereby amended to read as follows (new text is shown in underline, deleted text is shown in ~~strikethrough~~):

16.20.040 Site development exceptions.

A. Average Front Setback. If a block has residential buildings on more than one-half of the lots on the same side of the block, the owner of a lot on that block may use the average of all the setbacks of the existing residential buildings on the same side of the street as the minimum required front setback for the lot. Detached structures such as garages; carports; and uncovered porches, decks, steps and patios less than 30 inches in height, and other uncovered structures less than 30 inches in height shall not be included in the “average front setback” determination.

An applicant for such a determination shall provide a drawing which locates the street property line for the entire block, as well as the existing street setbacks of all buildings required to be used for the purpose of calculating the “average front setback.” The drawing shall be prepared and stamped by a land surveyor registered in the state of Washington.

B. Eaves and Chimneys. Eaves and chimneys may project into a required setback not more than 30 inches.

C. Porches and Decks. Uncovered and unenclosed porches, steps, patios, and decks may project into a required setback not more than one-third of the required setback, or four feet, whichever is less; provided, that they are no more than 30 inches above ground level at any point.

D. ~~[reserved]Setback Adjustments. Chapter 20.50 ECDC contains a procedure for adjusting distances and locations in special situations.~~

E. Corner Lots. Corner lots have no rear setback; all setbacks other than the street setbacks shall be side setbacks.

F. Docks, Piers, Floats.

1. Height. The height of a residential dock or pier shall not exceed five feet above the ordinary high water mark. The height of attendant pilings shall not exceed five feet above the ordinary high water mark or that height necessary to provide for temporary emergency protection of floating docks.

2. Length. The length of any residential dock or pier shall not exceed the lesser of 35 feet or the average length of existing docks or piers within 300 feet of the subject dock or pier.

3. Width. The width of any residential dock or pier shall not exceed 25 percent of the lot width when measured parallel to the shoreline.

4. Setbacks. All residential docks or piers shall observe a minimum 10-foot side yard setback from a property line or a storm drainage outfall. Joint use docks or piers may be located on the side property line; provided, that the abutting waterfront property owners shall file a joint use maintenance agreement with the Snohomish County auditor in conjunction with, and as a condition of, the issuance of a building permit. Joint use docks or piers shall observe all other regulations of this subsection.

5. Number. No lot shall have more than one dock or pier or portion thereof located on the lot.

6. Size. No residential dock or pier shall exceed 400 square feet.

7. Floats. Offshore recreational floats are prohibited.

8. Covered Buildings. No covered building shall be allowed on any residential dock or pier.

Section 6. Subsection ECDC 19.00.025.R, which makes local amendments to Section 3108.1.1 to the International Building Code, is hereby amended to read as follows (new text is shown in underline, deleted text is shown in ~~striketrough~~):

R. Section 3108.1.1, Radio, television and cellular communication related equipment and devices, is added and reads:

A permit shall be required for the installation or relocation of commercial radio, television or cellular tower support structures including monopoles, ~~guyed or lattice towers~~, whip antennas, panel antennas, parabolic antennas and related accessory equipment, and accessory equipment shelters (regardless of size) including roof mounted equipment shelters.

Section 7. The following sections of Title 21 ECDC, which contain various definitions related to wireless communications facilities, are hereby repealed:

ECDC 21.05.035. Antenna.

ECDC 21.05.055. Attached wireless communication facility.

ECDC 21.15.035. Co-location.

ECDC 21.35.040. Guyed tower.

ECDC 21.55.005. Lattice tower.

ECDC 21.60.002. Macro facility.

ECDC 21.60.004. Micro facility.

ECDC 21.60.006. Mini facility.

ECDC 21.60.045. Monopole I.

ECDC 21.60.046. Monopole II.

ECDC 21.100.080. Transmission tower.

ECDC 21.115.022. Wireless communication facility.

ECDC 21.115.024. Wireless communication support structure.

Section 8. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 9. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:



MAYOR MIKE COOPER

ATTEST/AUTHENTICATED:



CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

JEFFREY B. TARADAY

FILED WITH THE CITY CLERK:	07-01-2011
PASSED BY THE CITY COUNCIL:	07-05-2011
PUBLISHED:	07-10-2011
EFFECTIVE DATE:	07-15-2011
ORDINANCE NO. <u>3845</u>	

SUMMARY OF ORDINANCE NO. 3845

of the City of Edmonds, Washington

On the 5th day of July, 2011, the City Council of the City of Edmonds, passed Ordinance No. 3845. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, RELATING TO DEVELOPMENT REGULATIONS FOR WIRELESS COMMUNICATION FACILITIES, REPEALING AND READOPTING CHAPTER 20.50 ECDC, AMENDING AND REPEALING CORRESPONDING REGULATIONS AND REFERENCES ELSEWHERE IN THE ECDC, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 6th day of July, 2011.


CITY CLERK, SANDRA S. CHASE

ATTACHMENT A

Chapter 20.50

Wireless Communications Facilities

- 20.50.010 Purpose.
- 20.50.020 Applicability.
- 20.50.030 Exemption.
- 20.50.040 Prohibitions.
- 20.50.050 General siting criteria and design considerations.
- 20.50.060 Permit requirements.
- 20.50.070 Application requirements.
- 20.50.080 Review timeframes.
- 20.50.090 Building-mounted facility standards.
- 20.50.100 Structure-mounted facility standards.
- 20.50.110 Monopole facility standards.
- 20.50.120 Temporary facilities.
- 20.50.130 Modification.
- 20.50.140 Abandonment or discontinuation of use.
- 20.50.150 Maintenance.
- 20.50.160 Definitions.

20.50.010 Purpose.

- A. The purpose of this Chapter is to regulate the placement, construction and modification of wireless communication facilities, in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City. The purpose of this Chapter may be achieved through adherence to the following objectives:
1. Protect residential areas and land uses from potential adverse impacts that wireless communication facilities might create, including but not limited to negative impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, and health and safety of persons and property;
 2. Establishment of clear and nondiscriminatory local regulations concerning wireless telecommunications providers and services that are consistent with Federal and State laws and regulations pertaining to telecommunications providers;
 3. Encourage providers of wireless communication facilities to locate facilities, to the extent possible, in areas where the adverse impact on the community is minimal;
 4. Encourage the location of wireless communication facilities in nonresidential areas and allow wireless communication facilities in residential areas only when necessary, to meet functional requirements of the telecommunications industry as defined by the Federal Communications Commission;
 5. Minimize the total number of wireless communication facilities in residential areas;
 6. Encourage and where legally permissible, require cooperation between competitors and, as a primary option, joint use of new and existing towers, tower sites and suitable

structures to the greatest extent possible, in order to reduce cumulative negative impact on the City;

7. Ensure wireless communication facilities are configured in a way that minimizes the adverse visual impact of the facilities, as viewed from different vantage points, through careful design, landscape screening, minimal impact siting options and camouflaging techniques, and through assessment of technology, current location options, siting, future available locations, innovative siting techniques and siting possibilities beyond the jurisdictional boundaries of the City;
 8. Enable wireless communication companies to enter into lease agreements with the City to use City property for the placement of wireless facilities, where consistent with other public needs, as a means to generate revenue for the City;
 9. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;
 10. Provide for the prompt removal of wireless communication facilities that are abandoned or no longer inspected for safety concerns and Building Code compliance, and provide a mechanism for the City to cause these abandoned wireless communication facilities to be removed as necessary, to protect the citizens from imminent harm and danger;
 11. Avoid potential damage to adjacent properties from tower failure, through strict compliance with State building and electrical codes; and
 12. Provide a means for public input on wireless communication facility placement, construction and modification.
- B. In furtherance of these objectives, the City shall give due consideration to the zoning code, existing land uses, and environmentally sensitive areas when approving sites for the location of communication towers and antennas.
- C. These objectives were developed to protect the public health, safety and welfare, to protect property values, and to minimize visual impact, while furthering the development of enhanced telecommunication services in the City. These objectives were designed to comply with the Telecommunications Act of 1996. The provisions of this Chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This Chapter shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.
- D. To the extent that any provision of this Chapter is inconsistent or conflicts with any other City ordinance, this Chapter shall control. Otherwise, this Chapter shall be construed consistently with the other provisions and regulations of the City.
- E. In reviewing any application to place, construct or modify wireless communication facilities, the City shall act within a reasonable period of time after an application for a permit is duly filed, taking into account the nature and scope of the application. Any decision to deny an application shall be in writing, supported by substantial evidence contained in a written record. The City shall approve, approve with conditions, or deny the application in accordance with Title 20 of the Edmonds Community Development Code (ECDC), this Chapter, the adopted Edmonds Comprehensive Plan, and other applicable ordinances and regulations.

20.50.020 Applicability.

- A. Except as provided herein, all wireless communications facilities shall comply with the provisions of this chapter. The standards and process requirements of this chapter supersede all other review process, setback, height or landscaping requirements of the Edmonds Community Development Code.
- B. All proposed installations are subject to a threshold determination under the State Environmental Policy Act (SEPA) according to ECDC 20.15A unless categorically exempt pursuant to WAC 197-11-800.

20.50.030 Exemptions.

The following are exemptions from the provisions of this chapter:

- A. Radar systems for military and civilian communication and navigation.
- B. Handheld, mobile, marine and portable radio transmitters and/or receivers.
- C. Satellite antennas, including direct to home satellite services, and those regulated in ECDC 16.20.050.D.
- D. Licensed amateur (ham) radio stations and citizen band stations as regulated in ECDC 16.20.050.E.
- E. Earth station antenna(s) one meter or less in diameter and located in any zone.
- F. Earth station antenna(s) two meters or less in diameter and located in the business and commercial zones.
- G. Maintenance or repair of a communication facility, antenna and related equipment, transmission structure, or transmission equipment enclosures; provided, that the equipment, structure or enclosures maintain compliance with the standards of this chapter. If the cost of repair of a legally nonconforming equipment, structure and/or enclosure exceeds 50% of the fair market value of the equipment, structure and/or enclosure, the repair shall be conducted in accordance with the provisions of this chapter.
- H. Subject to compliance with all other applicable standards of this chapter, a building permit application need not be filed for emergency repair or maintenance of a facility until five business days after the completion of such emergency activity.

20.50.040 Prohibitions.

- A. The following wireless communications facilities are prohibited in Edmonds.
 - 1. Guyed towers.
 - 2. Lattice towers.
- B. Monopoles are prohibited in the following locations:
 - 1. All residential zones [single family (SF) and multifamily (MF)];
 - 2. Downtown Waterfront Activity Center;
 - 3. Public (P) and Open Space (OS) zoned parcels; and
 - 4. Within the City rights-of-way.

20.50.050 General Siting Criteria and Design Considerations.

- A. The City of Edmonds encourages wireless communications providers to use existing sites or more frequent, less noticeable sites instead of attempting to provide coverage through use of taller towers. To that end, applicants shall consider the following priority of preferred locations for wireless communication facilities:
 - 1. Co-location, without an increase in the height of the building, pole or structure upon which the facility would be located;
 - 2. Co-location, where additional height is necessary above existing building, pole, or structure;
 - 3. A replacement pole or structure for an existing one;
 - 4. A new pole or structure altogether.
- B. Co-location shall be encouraged for all wireless communications facility applications and is implemented through less complex permit procedures.
 - 1. To the greatest extent technically feasible, applicants for new monopole facilities shall be required to build mounts capable of accommodating at least one other carrier.
 - 2. Any Wireless Communication Facility that requires an conditional use permit (CUP) under the provisions of this chapter shall be separated by a minimum of 500 feet from any other facility requiring an CUP, unless the submitted engineering information clearly indicates that the requested site is needed in order to provide coverage for the particular provider and other siting options have been analyzed and proven infeasible.
- C. Noise. Any facility that requires a generator or other device which will create noise audible beyond the boundaries of the site must demonstrate compliance with Edmonds City Code (ECC) Chapter 5.30, "Noise Abatement and Control". A noise report, prepared by an acoustical engineer, shall be submitted with any application to construct and operate a wireless communication facility that will have a generator or similar device. The City may require that the report be reviewed by a third party expert at the expense of the applicant.
- D. Business license requirement. Any person, corporation or entity that operates a wireless communication facility within the City shall have a valid business license issued annually by the City. Any person, corporation or other business entity which owns a monopole also is required to obtain a business license on an annual basis.
- E. Signage. Only safety signs or those mandated by a government entity with jurisdiction may be located on wireless communication facilities. No other types of signs are permitted on wireless communication facilities.
- F. Any application must demonstrate that there is sufficient space for temporary parking for regular maintenance of the proposed facility.
- G. Finish. A monopole shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or FCC, be painted a neutral color so as to reduce its visual obtrusiveness.
- H. Design. The design of all buildings and ancillary structures shall use materials, colors, textures, screening and landscaping that will blend the facilities with the natural setting and built environment.
- I. Color. All antennas and ancillary facilities located on buildings or structures other than monopoles shall be of a neutral color that is identical to or closely compatible with the color

of the supporting structure so as to make the antenna and ancillary facilities as visually unobtrusive as possible.

- J. Lighting. Monopoles shall not be artificially lighted unless required by the FAA, FCC or other government entity with jurisdiction. If lighting is required and alternative lighting options are permitted, the City shall review the lighting alternatives and approve the design that would cause the least disturbance to the surrounding area. No strobe lighting of any type is permitted on any monopole. If FAA guidelines would require a strobe, the location shall be denied unless no other site or combination of sites would provide adequate coverage in accord with FCC requirements.
- K. Advertising. No advertising is permitted at wireless communication facility sites or on any ancillary structure or facilities equipment enclosure.
- L. Equipment enclosure. Each applicant shall use the smallest equipment enclosure practical to contain the required equipment and a reserve for required co-location.
- M. Radio frequency emissions compliance. The applicant shall demonstrate that the project will not result in levels of radio frequency emissions that exceed FCC standards, including FCC Office of Engineering Technology (OET) Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, as amended. Additionally, if the Director determines the wireless communications facility, as constructed, may emit radio frequency emissions that are likely to exceed Federal Communications Commission uncontrolled/general population standards in the FCC Office of Engineering Technology (OET) Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, as amended, in areas accessible by the general population, the Director may require post-installation testing to determine whether to require further mitigation of radio frequency emissions. The cost of any such testing and mitigation shall be borne by the applicant.
- N. Landscaping and screening.
 - 1. The visual impacts of wireless communication facilities should be mitigated and softened through landscaping or other screening materials at the base of a monopole, facility equipment compound, equipment enclosures and ancillary structures. If the antenna is mounted flush on an existing building, or camouflaged as part of the building and other equipment is housed inside an existing structure, no landscaping is required. The Director or his designee may reduce or waive the standards for those sides of the wireless communication facility that are not in public view, when a combination of existing vegetation, topography, walls, decorative fences or other features achieve the same degree of screening as the required landscaping; in locations where the visual impact of the facility would be minimal; and in those locations where large wooded lots not capable of subdivision and natural growth around the property perimeter provide a sufficient buffer.
 - 2. Landscaping shall be installed on the outside of fences in accordance with ECDC 20.13. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or as a supplement to landscaping or screening requirements. The following requirements apply:
 - a. Type I landscaping shall be placed around the perimeter of the equipment cabinet enclosure, except that a maximum 10-foot portion of the fence may remain without landscaping in order to provide access to the enclosure.

- b. Landscaping area shall be a minimum of 5 feet in width around the perimeter of the enclosure.
 - c. Vegetation selected should be native and drought tolerant.
 - d. Landscaping shall be located so as not to create sight distance hazards or conflicts with other surrounding utilities.
3. When landscaping is used, the applicant shall submit a landscaping bond pursuant to ECDC 20.13.040.
 4. The use of chain link, plastic, vinyl or wire fencing is prohibited. Ornamental metal or wood fencing materials are preferred.

20.50.060 Permit Requirements.

- A. No person may place, construct, reconstruct or modify a wireless communication facility subject to this Chapter without first having in place a permit issued in accordance with this Chapter. Except as otherwise provided herein, the requirements of this Chapter are in addition to the applicable requirements of ECDC Title 20 and ECDC Title 18.
- B. Applications will be reviewed based on the type of wireless communication facilities requested to be permitted. Each wireless communication facility requires the appropriate type of project permit review, as shown in Table 20.50.060.B(1). In the event of uncertainty on the type of a wireless facility, the Director shall have the authority to determine what permits are required for the proposed facility. The Conditional Use Permit types referenced are described in ECDC Chapter 20.01.

Table 20.50.060.B(1) – Permit Requirements for Wireless Communications Facilities

Type of Wireless Communications Facility	Permits Required		
	Building Permit	Conditional Use Permit (CUP)	Right-of-Way Permit
Building-mounted facilities or facilities co-located on an existing monopole	X		
Structure-mounted facilities (excluding co-location on existing monopole)	X (as applicable)	X (Type II)	X (as applicable)
Monopole facilities (structure complies with height requirement of the underlying zone in ECDC Title 16)	X		
Monopole facilities (structure exceeds maximum height of zone in ECDC Title 16)	X	X (Type III-B)	

- C. Any application submitted pursuant to this chapter for projects located on public or private property, shall be reviewed and evaluated by the Director, or his designee. The Director of Public Works or his/her designee shall review all proposed wireless communication facilities that are located partially or fully within the City rights-of-way. Regardless of whether the Director or the Director of Public Works or their respective designees, are reviewing the application, all applications will be reviewed and evaluated pursuant to the provisions of this chapter.
- D. All applications for wireless communications facilities shall be reviewed for compliance with the applicable design standards by the Director or his designee.
- E. The applicant is responsible for obtaining all other permits from any other appropriate governing body with jurisdiction (i.e., Washington State Department of Labor and Industries, Federal Aviation Administration, etc.).
- F. No provision of this chapter shall be interpreted to allow the installation of a wireless communication facility which minimize parking, landscaping or other site development standards established by the Edmonds Community Development Code.
- G. Wireless communication facilities that are governed under this chapter shall not be eligible for variances under ECDC chapter 20.85. Any request to deviate from this chapter shall be based solely on the exceptions set forth in this chapter.
- H. Third party review. Applicants may use various methodologies and analyses, including geographically-based computer software, to determine the specific technical parameters of the services to be provided utilizing the proposed wireless communication facilities, such as expected coverage area, antenna configuration, capacity, and topographic constraints that affect signal paths. In certain instances, a third party expert may be needed to review the engineering and technical data submitted by an applicant for a permit. The City may at its discretion require third party engineering and technical review as part of a permitting process. The costs of the technical third party review shall be borne by the applicant.
 - 1. The selection of the third party expert is at the discretion of the City. The third party expert review is intended to address interference and public safety issues and be a site-specific review of engineering and technical aspects of the proposed wireless communication facilities and/or a review of the applicants' methodology and equipment used, and is not intended to be a subjective review of the site which was selected by an applicant. Based on the results of the expert review, the City may require changes to the proposal. The third party review shall address the following:
 - a. The accuracy and completeness of submissions;
 - b. The applicability of analysis techniques and methodologies;
 - c. The validity of conclusions reached;
 - d. The viability of other site or sites in the City for the use intended by the applicant; and
 - e. Any specific engineering or technical issues designated by the City.
- J. Any decision by the Director or the Director of Public Works shall be given substantial deference in any appeal of a decision by the City to either approve, approve with conditions, or deny any application for a wireless communication facility.
- K. No alterations or changes shall be made to plans approved by the Director, Director of Public Works, or Hearing Examiner without the approval of the City.

- L. Co-location of additional antennas on permitted nonconforming monopoles is not considered to increase the nonconformity of the structure and is therefore allowed; provided, no increase to the height of a nonconforming monopole is allowed.

20.50.070 Application Requirements.

In addition to the requirements of ECDC 20.02.002, and those associated with the permit types referenced in Section 20.50.060, the following information must be submitted as part of a complete application for a wireless communications facility permit in the City of Edmonds:

- A. Project description including a design narrative, technology description, and co-location analysis indicating the alternative locations and technologies considered;
- B. Existing wireless coverage map overlaid on a current aerial photo showing provider's existing facilities and wireless coverage in the area;
- C. Proposed wireless coverage map overlaid on a current aerial photo showing provider's wireless coverage with the proposed facility;
- D. Site information on scaled plans, including;
 - 1. Site plan
 - 2. Elevation drawings
 - 3. Undergrounding details, as applicable
 - 4. Screening, camouflaging or landscaping plan and cost estimate (produced in accordance with ECDC 20.13), as appropriate
- E. Photos and photo-simulations showing the existing appearance of the site and appearance of the proposed installation from nearby public viewpoints;
- F. Noise report (per ECDC 20.50.050.C), if applicable;
- G. Radio frequency emissions report for the proposed facility, which shall not be reviewed further by the City;
- H. Any other documentation deemed necessary by the Director in order to issue a decision.

20.50.080 Review Timeframes.

- A. Co-located facilities (building- and structure mounted).
 - 1. For new or replacement wireless antennas mounted on existing structures requiring a building or engineering permit, the City shall issue a final decision on the project within 90 days of the date the application is determined to be complete. The City shall have 30 days from the date of filing to determine whether the application is complete; if deemed incomplete, the City shall inform the applicant in writing of the documentation needed to make the application complete. The City shall have 14 days from the receipt of the additional information to issue a letter of completeness, or request additional information as appropriate. Such decision shall be final and appealable only to Superior Court under the Land Use Permit Act.
 - 2. The 90-day time period for a decision may be extended by mutual written agreement of the City and the applicant if circumstances warrant.
 - 3. For purposes of this section, "co-located facilities" includes any of the following types of facilities:

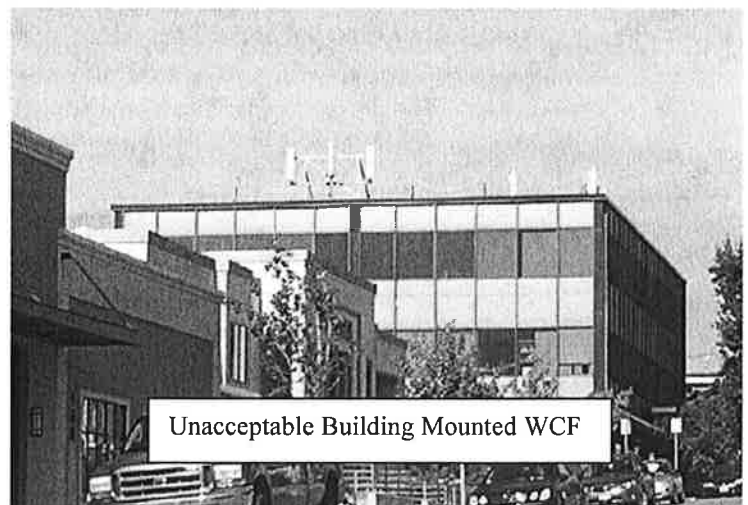
- a. Facilities that are mounted or installed on an existing monopole, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes; or
 - b. Facilities that do not involve a substantial increase in the size of a monopole. For purposes of this section, "substantial increase in the size of a monopole" means:
 - 1) The mounting of the proposed antenna on the monopole would increase the existing height of the monopole by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, provided, however, that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas;
 - 2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter;
 - 3) The mounting of the proposed antenna would involve adding an appurtenance to the body of the monopole that would protrude from the edge of the tower more than twenty feet, or more than the width of the monopole at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the monopole via cable; or
 - 4) The mounting of the proposed antenna would involve excavation outside the current monopole site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site; or
 - c. Facilities that are a part of a Distributed Antenna System, provided that the Distributed Antenna System connects to an existing tower or antenna. A Distributed Antenna System, for the purposes of this section, is a network of spatially separated antenna sites connected to a common source that provides wireless service within a discrete geographic area or structure.
- B. New monopoles. Wireless communication facilities requiring a Type III-B conditional use permit shall meet the requirements of ECDC 20.05.

20.50.090 Building-Mounted Wireless Communication Facility Standards.

- A. Generally. Wireless communication facilities located on the roof or on the side of the building shall be grouped together, integrated to the maximum possible degree with the building design, placed toward the center of the roof and/or thoroughly screened from residential building views and from public views using radio frequency-transparent panels. Building-mounted wireless communication facilities shall be painted with non-reflective colors to match the existing surface where the antennas are mounted.
- B. Height. The following requirements shall apply:
 - 1. Downtown Waterfront/Activity Center (as identified in the Edmonds Comprehensive Plan). For buildings at, or which exceed, the height limit of the underlying zone, antennas shall be flush-mounted and no portion of the antenna may extend above the

building on which it is mounted. For buildings below the height limit, antennas may be built to the maximum height of the zone provided they are screened consistent with the existing building in terms of color, architectural style and material. Flush-mounted antennas may encroach into a required setback or into the City right-of-way if a right-of-way use agreement is established with the City. Antennas shall not project into the right-of-way by more than two feet and shall provide a minimum clearance height of 20 feet over any pedestrian or vehicular right-of-way.

2. Outside the Downtown/Waterfront Activity Center. The maximum height of building-mounted facilities and equipment shall not exceed nine (9) feet above the top of the roof on which the facility is located. This standard applies to all buildings regardless of whether they are at or above the maximum height of the underlying zone. Such antennas must be well integrated with the existing structure or designed to look like common rooftop structures such as chimneys, vents and stovepipes.
- C. Equipment enclosure. Equipment enclosures for building-mounted wireless communication facilities shall first be located within the building on which the facility is located. If an equipment enclosure within the building is reasonably unavailable then an equipment enclosure may be incorporated into the roof design provided the enclosure meets the height requirement for the zone. If the equipment can be screened by placing the equipment below existing parapet walls, no additional screening is required. If screening is required, then the screening must be consistent with the existing building in terms of color, architectural style and material. Finally, if there is no other choice but to locate the equipment enclosure on the ground, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance with ECDC 20.50.050.N.
- D. Feed lines and coaxial cables. Feed lines and cables should be located below the parapet of the rooftop, if present. If the feed lines and cables are visible from a public right of way or adjacent property, they must be painted to match the color scheme of the building.

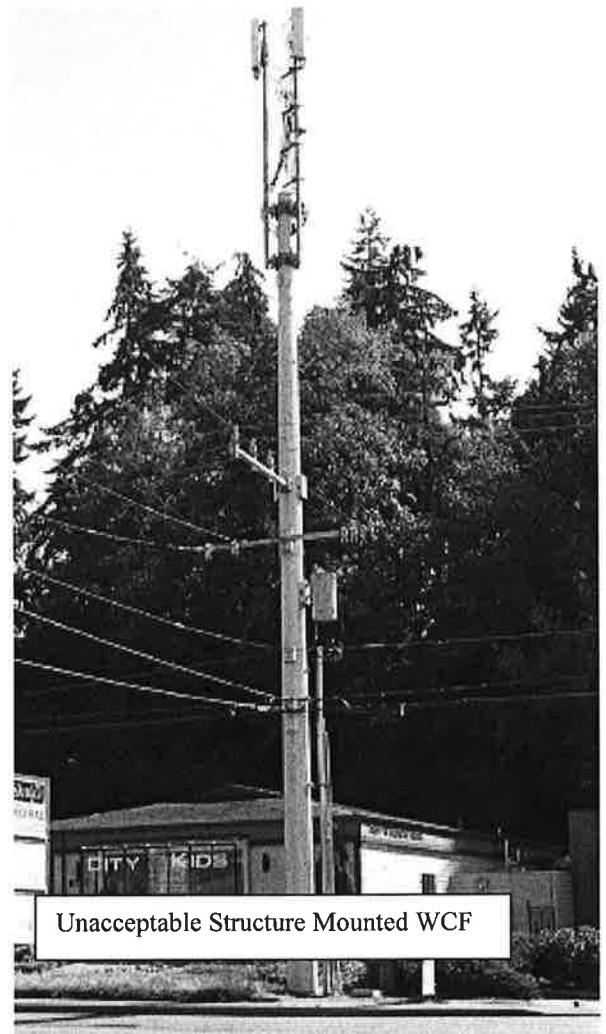


20.50.100 Structure-Mounted Wireless Communication Facilities Standards.

- A. Generally. Wireless communication facilities located on structures other than buildings, such as utility poles, light poles, flag poles, transformers, and/or tanks shall be designed to blend with these structures and be mounted on them in an inconspicuous manner.
1. Wireless communication facilities located on structures within unzoned City rights-of-way adjacent to single family residential (RS) zones shall satisfy the following requirement:
 - a. No metal pole or tower shall be used within the right-of-way adjacent to a single-family zoned neighborhood unless required in order to comply with the provisions of the State Electrical Code. Wooden poles of height and type generally in use in the surrounding residential neighborhood shall be used unless prohibited by the State Electrical Code.
 2. Wireless communication facilities located on structures shall be painted with non-reflective colors in a scheme that blends with the underlying structure.
- B. Height.
1. The maximum height of structure-mounted wireless communication facilities shall not exceed the maximum height specified for each structure or zoning district (rights-of way are unzoned); provided the wireless communication facility may extend up to six (6) feet above the top of the structure on which the wireless communication facility is installed. This includes installation of facilities on structures built at or above the maximum height allowed in a specific zone, so long as the diameter of any portion of a wireless communication facility in excess of the allowed height does not exceed the shortest diameter of the structure at the point of attachment. The height and diameter of the existing structure prior to replacement or enhancement for the purposes of supporting wireless communication facilities shall be used to determine compliance with this subsection.
 2. Only one extension is permitted per structure.
 3. If installed on an electrical transmission or distribution pole, a maximum 15-foot vertical separation is required from the height of the existing power lines at the site (prior to any pole replacement) to the bottom of the antenna. This vertical separation is intended to allow wireless carriers to comply with the electrical utility's requirements for separation between their transmission lines and the carrier's antennas.
- C. Equipment enclosure. Equipment enclosures shall first be located underground. If the enclosure is within the right-of-way, the enclosure shall be underground. If there is no other feasible option but to locate the equipment enclosure above ground on private property, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance with ECDC 20.50.050.N.
- D. Feed lines and coaxial cable. Feed lines and cables must be painted to closely match the color scheme of the structure which supports the antennas.
- E. Only wireless communication providers with a valid right-of-way use agreement shall be eligible to apply for a right-of-way construction permit, which shall be required prior to installation of facilities within the city right-of-way and be in addition to other permits specified in this chapter.



Acceptable Structure Mounted WCF

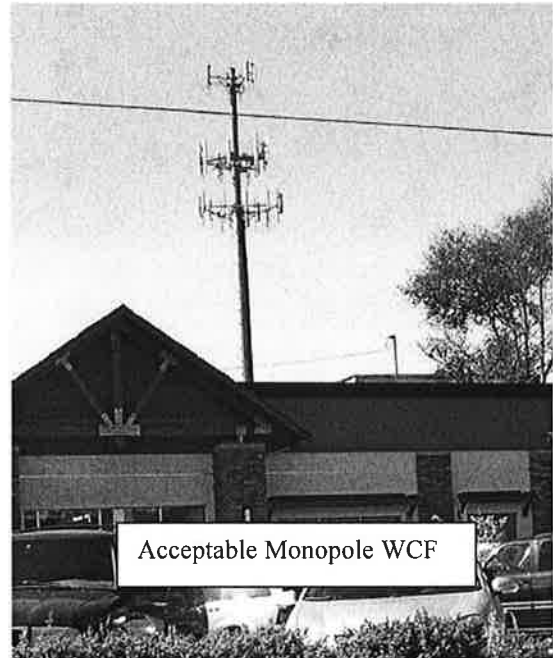


Unacceptable Structure Mounted WCF

20.50.110 Monopole Facility Standards.

- A. New monopoles are not permitted within the City unless the applicant has demonstrated that:
1. Coverage objective – There exists a gap in service and the proposed wireless communication facility will eliminate such gap in service; and
 2. Alternatives – No existing structure, building, or other feasible site or sites, or other alternative technologies not requiring a new monopole in the City, can accommodate the applicant's proposed wireless communication facility; and

3. Least intrusive – The proposed new wireless communication facility is designed and located to remove the gap in service in a manner that is, in consideration of the values, objectives and regulations set forth in this chapter, ECDC Title 20, and the Comprehensive Plan, the least intrusive upon the surrounding area.



- B. All monopole facilities shall conform to the following site development standards:
1. To the greatest extent possible, monopole facilities shall be located where existing trees, existing structures and other existing site features camouflage these facilities.
 2. Existing mature vegetation should be retained to the greatest possible degree in order to help conceal the facility.
 3. Equipment enclosure. The first preference is for the equipment enclosure to be located underground. If the enclosure is within the right-of-way, the enclosure must be underground. If there is no other choice but to locate the equipment enclosure on the ground, the equipment must be enclosed within an accessory structure which meets the setbacks of the underlying zone and be screened in accordance with ECDC 20.50.050.N.
 4. Feed lines, coaxial cables. Feed lines and cables must be painted to closely match the color scheme of the structure which supports the antennas.
- C. Review criteria. The Hearing Examiner shall review an application for a new monopole exceeding the maximum height of the zone as a Type III-B conditional use permit (per ECDC 20.05), and shall determine whether or not each of the above standards are met. Examples of evidence demonstrating the Type III-B conditional use permit requirements include, but are not limited to, the following:
1. That the monopole height is the minimum necessary in order to achieve the coverage objective;

2. That no existing monopoles, structures or alternative site(s) are located within the geographic area that meet the applicant's engineering requirements to fulfill its coverage objective (regardless of the geographical boundaries of the City);
3. That existing monopoles or structures are not of a sufficient height or could not feasibly be extended to a sufficient height to meet the applicant's engineering requirements to meet its coverage objective;
4. That existing structures or monopoles do not have sufficient structural strength to support the applicant's proposed antenna and ancillary facilities;
5. That the applicant's proposed antenna would cause electromagnetic interference with antennas on the existing monopoles or structures, or the antennas on existing structures would cause interference with the applicant's proposed antenna;
6. That an alternative technology that does not require the use of a new monopole is unsuitable. Costs of alternative technology that exceed new monopole or antenna development shall not be presumed to render the technology unsuitable; and
7. The applicant demonstrates other limiting factors that render existing monopoles and structures or other sites or alternative technologies unsuitable. Engineering and technological evidence must be provided and certified by a registered professional engineer and clearly demonstrate the evidence required.

D. Zoning setback exceptions.

1. Generally, wireless communication facilities placed on private property must meet setbacks identified in ECDC Title 16. However, in some circumstances, allowing modifications to setbacks may better achieve the goal of this section of concealing such facilities from view.
2. The Director or Hearing Examiner, depending on the type of application, may approve modifications to be made to setbacks when:
 - a. An applicant for a wireless communication facility can demonstrate that placing the facility on certain portions of a property will provide better screening and aesthetic considerations than provided under the existing setback requirements; or
 - b. The modification will aid in retaining open space and trees on the site; or
 - c. The proposed location allows for the wireless communication facility to be located a greater distance from residentially-zoned properties.
3. This zoning setback modification cannot be used to waive/modify any setback required under the State Building Code or Fire Code.
4. A request for a setback exception shall be made at the time the initial application is submitted.

20.50.120 Temporary facilities.

- A. The installation of a "cell on wheels" or COWs and the installation site shall comply with all applicable laws, statutes, requirements, rules, regulations, codes, including, but not limited to the Uniform Fire Prevention and Building Code and National Electric Code.
- B. COWs may only be used in the immediate aftermath of declared emergencies in the City of Edmonds in order to provide temporary wireless service. All COWs and related

appurtenances shall be completely removed from the installation site within thirty (30) days of the date of the end of the emergency as determined by the Mayor.

20.50.130 Modification.

The applicant and/or co-applicant may apply to alter the terms of a conditional use permit (CUP) by modifying specific features of the wireless communication facility. If any of the following changes are proposed or occur, such modifications must be submitted to the City as a new CUP application. This provision shall not apply to routine maintenance of a wireless communication facility (WCF), as described in ECDC 20.50.030.G

20.50.140 Abandonment or Discontinuation of Use.

- A. At such time that a licensed carrier plans to abandon or discontinue operation of a wireless communication facility, such carrier will notify the Director by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.
- B. In the event that a licensed carrier fails to give such notice, the wireless communication facility shall be considered abandoned upon the discovery of such discontinuation of operations.
- C. Within 90 days from the date of abandonment or discontinuation of use, the carrier shall physically remove the wireless communication facility. "Physically remove" shall include, but not be limited to:
 - 1. Removal of antennas, mounts or racks, the equipment enclosure, screening, cabling and the like from the subject property.
 - 2. Transportation of the materials removed to a repository outside of the City.
 - 3. Restoration of the wireless communication facility site to its pre-permit condition, except that any landscaping provided by the wireless communication facility operator may remain in place.
 - 4. If a carrier fails to remove a wireless communication facility in accordance with this section, the City shall have the authority to enter the subject property and physically remove the facility. Costs for removal of the wireless communication facility shall be charged to the wireless communication facility owner or operator in the event the City removes the facility.

20.50.150 Maintenance.

- A. The applicant shall maintain the WCF to standards that may be imposed by the City at the time of granting a permit. Such maintenance shall include, but not be limited to, painting, structural integrity, and landscaping.
- B. In the event the applicant fails to maintain the facility, the City of Edmonds may undertake enforcement action as allowed by existing codes and regulations.

20.50.160 Definitions.

A. Antenna.

A device used to capture an incoming and/or to transmit an outgoing radio-frequency signal. Antennas include, but are not limited to, the following types: omni-directional (or “whip”), directional (or “panel”), parabolic (or “dish”), and ancillary antennas (antennas not directly used to provide wireless communication services).

B. Cell-on-wheels (COW).

Cell-on-wheels (COW). COWs are used to provide temporary service, usually for special events, before the installation of a permanent wireless site, or in emergencies.

C. Co-location.

Collocation means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes

D. Distributed Antenna System (DAS).

Distributed Antenna System (DAS). DAS is a network of spatially separated antenna sites connected to a common source that provides wireless service within a discrete geographic area or structure.

E. Guyed tower.

Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

F. Lattice tower.

Lattice tower is a wireless communication support structure which consists of metal crossed strips or bars to support antennas and related equipment.

G. Licensed carrier.

Licensed carrier is a company authorized by the Federal Communications Commission to build and operate a commercial mobile radio services system.

H. Monopole.

Monopole. A freestanding structure which consists of a single vertical pole, fixed into the ground and/or attached to a foundation with no guy wires built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities. Antenna(s) may be externally mounted (visible antenna) or internally mounted (no visible antennae).

I. Satellite Earth Station Antenna.

A satellite earth station antenna which includes any antenna in any zoning district that:

1. Is designed to receive direct broadcast satellite service, including direct-to-home satellite services, and that is one meter or less in diameter;
2. Is two meters or less in diameter in areas where commercial or industrial uses are generally permitted;

3. Is designed to receive programming services by means of multi-point distribution services, instructional television fixed services, and local multi-point distribution services, that is one meter or less in diameter or diagonal measurement; and
4. Is designed to receive television broadcast signals.

J. Unlicensed Wireless Services.

Unlicensed Wireless Services. The offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services..

K. Wireless communication facility.

Wireless Communication Facility (WCF). An unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. A WCF provides services which include cellular phone, personal communication services, other mobile radio services, and any other service provided by wireless common carriers licensed by the Federal Communications Commission (FCC). WCFs are composed of two or more of the following components:

1. Antenna;
2. Mount;
3. Equipment enclosure;
4. Security barrier.

L. Wireless Communication Facility (WCF), Building Mounted.

Wireless Communication Facility (WCF), Building Mounted. Wireless communication facility mounted to the roof, wall or chimney of a building. Also, those antennas mounted on existing monopoles.

M. Wireless Communication Facility (WCF), Camouflaged.

Wireless Communication Facility, Camouflaged. A wireless communication facility that is disguised, hidden, or integrated with an existing structure that is not a monopole, guyed, or lattice tower, or placed within an existing or proposed structure.

N. Wireless Communication Facility (WCF), Equipment Enclosure.

Wireless Communication Facility, Equipment Enclosure. A small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communications signals. Associated equipment may include air conditioning and emergency generators.

O. Wireless Communication Facility (WCF), Monopole.

Wireless Communication Facility (WCF), Monopole. Wireless communication facility not attached to a structure or building and not exempted from regulation under ECDC 20.50.010. Does not include co-location of a facility on an existing monopole, utility pole, light pole, or flag pole.

P. Wireless Communication Facility (WCF), Related Equipment.

Related equipment is all equipment ancillary to a wireless communication facility such as coaxial cable, GPS receivers, conduit and connectors.

Q. Wireless Communication Facility (WCF), Structure Mounted.

Wireless Communication Facility (WCF), Structure Mounted. Wireless communication facility located on structures other than buildings, such as light poles, utility poles, flag poles, transformers, and/or tanks.

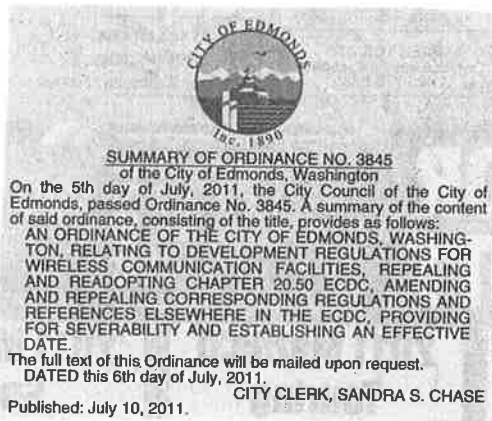
R. Wireless Communications Services.

Wireless Communications Services. Any personal wireless services as defined in the Federal Telecommunications Act of 1996, including federally licensed wireless telecommunications services consisting of cellular services, personal communications services (PCS), specialized mobile radio services (SMR), enhanced specialized mobile radio services (ESMR), paging, and similar services that currently exist or that may be developed in the future.

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.



The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance NO. 3845

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

July 10, 2011

and that said newspaper was regularly distributed to its subscribers during all of said period.

Jody Enoll

Principal Clerk

Subscribed and sworn to before me this

day of July, 2011

Kimberly A. Heltn

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.



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JUL 15 2011

EDMONDS CITY CLERK